UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

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LEWIS COSBY, KENNETH R. MARTIN, as beneficiary of the Kenneth Ray Martin Roth IRA, and MARTIN WEAKLEY on behalf of themselves and all others similarly situated,

Plaintiffs,

vs. No. 3:16-cv-00121

KPMG, LLP,

Defendant.

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April 12, 2019
9:01 a.m.

VIDEOTAPED DEPOSITION of CHAD COFFMAN, held at the law offices of MCDERMOTT WILL & EMERY LLP, 340 Madison Avenue, New York, New York, before Eleanor Greenhouse, a Shorthand Reporter and Notary Public within and for the State of New York.

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ALSO PRESENT:

Mukarram Attari, Charles River Associates
Allison Hart, Paralegal, McDermott Will & Emery

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THE VIDEO TECHNICIAN: This is the video deposition of Chad Coffman in the matter of Lewis Cosby et al. versus KPMG, LLP. This deposition is being held at McDermott Will & Emery LLP on April 12, 2019 at 9:01:00 a.m.

My name is Darrak Lighty from Reporters Central and I'm the video specialist. The court reporter today is Eleanor Greenhouse, also associated with Reporters Central.

Counsel will now state their appearances for the record.

MS. POSNER: Laura Posner, Cohen Milstein, Sellers & Toll PLLC, for the Plaintiff.

MR. BALLARD: I'm Greg Ballard, from McDermott Will & Emery, for KPMG, LLP. I have Allison Hart, a paralegal here, also from McDermott, with me.

MR. ATTARI: Mukarram Attari, Charles River Associates.

MR. DAVIDSON: Paul Davidson, Waller Lansden, on behalf of KPMG.

THE VIDEO TECHNICIAN: Will the court

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reporter please swear in the witness.

C H A D C O F F M A N, called as a witness, having been duly sworn by a Notary Public, was examined and testified as follows:

(Exhibit 25, March 15, 2019 expert report of Chad Coffman, marked for identification, as of this date.)

EXAMINATION BY

MR. BALLARD:

Q. I'm handing you Exhibit 25. What is Exhibit 25?

A. This appears to be a copy of the report I prepared and submitted in this matter.

Q. Did you sign this report on March 15, 2019?

A. Yes.

Q. Does Exhibit 25 contain a complete and accurate statement of your opinions as you hold them today in this matter?

A. Yes. It summarizes the opinions, the overarching opinions I've reached. Within the report there are a lot of sub-opinions as well, and obviously my background and experience contributed in a lot of ways to some of the analyses, but the

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everything, but I would have looked at that issue.

Q. This was important to you because those are the four of 19 instances that you referred to repeatedly through your report and you use it in your bar charts and you use it everywhere; right?

MS. POSNER: Objection. Misstates the report.

A. I don't know that I use it everywhere. There's a table that I find four of the 17 significant and I state that in the text as well.

Q. Did you look at the question carefully? Let me rephrase that. For the 17 events that you address in your event study for the common stock, did you look carefully to make sure you were getting the right dates?

A. Yes.

Q. Because that's important to your analysis?

A. Yes.

Q. I want to ask some questions about the Cammer factors so why don't you turn to page 14 of your report. The first factor you have listed here is trading volume. How significant is trading volume as one of the factors?

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securities analysts. It's not suggesting there's a big difference between are there 15 analysts or 16 analysts or three analysts or four analysts.

It's less of a strict correlation than is there just qualitatively evidence that there are analysts covering the stock.

Q. Would you say this factor weighs in favor of a finding of efficiency if an insignificant number of analysts are covering a stock?

A. I don't know how you would define insignificant. I certainly think it would not weigh towards efficiency if there weren't any analysts covering a stock or there was just one. What significant means, I'm just not sure.

Q. You've quoted this language here that says that it would be persuasive to allege a significant number of securities analysts. What is your view of what a significant number of securities analysts would be?

A. I guess I don't have a specific threshold in mind. I mean, in this particular case, as I've identified on Exhibit 4, there were 15 separate analysts that issued reports on the

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stock. At least a half dozen issued more than ten reports on the stock, and as I also note, my source for analysts' reports certainly doesn't cover all of the analyst reports that may have been out there, so the evidence in this case was sufficient that there was, in my view, a significant number of analysts covering the stock and I didn't need to think exactly what that threshold was.

Q. So you don't have a preset idea in your mind about what would be a significant number in a particular context, but you think that 15 certainly meets the threshold? Is that what you said?

A. I think 15 certainly meets that threshold. I think as long as there's evidence of significant analyst coverage of a company, that this factor supports market efficiency, and I demonstrate that there was significant analyst coverage during the analysis period.

Q. You said if there was only one analyst, that wouldn't be significant, and 15 is significant. Can you give us any closer idea of where the threshold would be for significance in your mind? 5, 12, 10, 14, 2?

A. Again, as I describe within this

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section, you know, focusing on the specific number is not really even what the Cammer factor was really getting at.

The question is -- as an economic matter, if you look at the language in the Cammer factor, it says, "The existence of such analysts would imply, for example, the auditor reports were closely reviewed by investment professionals, who would in turn make buy/sell recommendations to client investors."

Now there are many different outlets for people to get information about companies and analysis of companies, not just analyst reports. So again, I think the -- there could be an over-focus on just the number of analyst reports, so I don't have in my mind a very specific threshold.

And the relevant question is, is there evidence that there was significant analyst coverage of Miller Energy securities during the class period, and I concluded there was.

Q. Do you remember my question?

A. I think the question was, is there a specific number that I have in mind when thinking

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about what significant means.

Q. So is it yes or is it no?

MS. POSNER: Objection. Asked and answered.

Q. I think it's no.

A. I don't have a specific number in mind. Again, I believe I've answered the question in my report whether there was evidence of significant analyst coverage during the analysis period.

Q. You've said one is not significant, 15 is significant, and you can't be any more specific than that?

MS. POSNER: Objection.

MR. BALLARD: This is your chance.

MS. POSNER: Objection.

A. I'm not offering a bright line threshold for what is significant and what is not significant.

Q. Does quality of the analyst coverage matter?

A. Theoretically it could.

Q. Not all analysts are equal; right?

A. That's correct.

Q. So one analyst might work for a massive

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Q. Some of them you've never heard of before; right?

A. I don't know that I've never heard of them before, but they're not that familiar to me.

Q. What is SADIF Analytics?

A. I don't know.

Q. Do you know the name of the analyst, if there actually was one there?

A. Not as I sit here, no. I would have to go back and look at it.

Q. Are you confident that there was an actual analyst with a human being behind each of these entities here?

MS. POSNER: Objection.

A. If you're asking me if there's an individual analyst that is putting their name on the report, I just don't recall.

Q. Do you ever make any effort to distinguish between analyst reports that are created by actual human beings who create analyst reports versus machine generated things that are just spit out by computers?

MS. POSNER: Objection.

A. Within the context of this analysis,

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given the number of reports that were here from entities I am familiar with, I didn't make an attempt to do that. In the past, I would say there is a qualitative difference between those things.

Q. Would you typically exclude machine generated analyst reports from this kind of analysis?

A. I don't know if I would typically exclude them.

Q. Should they be excluded?

A. I don't know that they should be excluded. I think, you know, at an extreme, if that was the only -- if the only evidence of analyst reports were those types of reports, that would -- that would be something I would certainly consider and I would view that as less qualitatively good evidence of analyst coverage. But that wasn't -- I never really got to that question in this case because it's clear there were dozens of high-quality analyst reports issued during this period on Miller Energy.

Q. You've never looked at how many of these analysts, these entities you list as analysts, were actually machine generated things?

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MS. POSNER: Objection.

A. Well, I don't know that I ever -- I don't know that I performed a quantification of that, but in looking through the analyst reports in this case, I mean, there were certainly I believe examples of that, but I think there were lots of examples of analyst reports with -- from firms I recognize as well.

Q. Do you know what Wall Street Transcript is?

A. I believe that specific report in this case is the transcript of an interview somebody had with an executive from Miller Energy. That's my recollection of that.

Q. So how is that an analyst report?

A. Well, a lot of analysts, important information in a lot of analyst reports is when they have discussions with management. So an interview by management to me is clearly providing new relevant information to the market, and so I didn't see a problem in treating that as an analyst report.

Q. You would treat a word-for-word transcript of an interview with the CEO of Miller

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Energy as an analyst report?

MS. POSNER: Objection.

A. It's certainly evidence of interest in following the company and what the company is saying about its business. It's not what I would consider a traditional analyst report in the case of, you know, an analyst providing a buy or sell recommendation, but it's certainly a report that is providing important information to the market.

Q. The Wall Street Transcript shouldn't be on your list here; should it?

A. I disagree.

Q. It's your expert opinion that the Wall Street Transcript listed on your Exhibit 4 is an analyst report, that's your testimony as an expert sitting here under oath?

A. I'm saying -- I think I've said in my prior answer it's not what would be considered a traditional analyst report, but it's certainly a source of information and much of what analysts do is provide information, including results of meetings with management of public companies. So the transcript of an interview somebody had is providing useful information to the market.

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I would agree that it's not what is traditionally considered an analyst report but I think it's relevant to list it on this exhibit.

Q. Don't companies, when they make statements like that, file them in Form 8-Ks typically?

MS. POSNER: Objection.

A. Sometimes they do.

Q. So why don't you --

A. Let me finish my answer.

Q. Go ahead.

A. There are certainly times they do. There are times that statements and interviews or presentations by companies are not in 8-Ks.

Q. When a company makes a public statement and discloses it in an 8-K, why don't you include that as an analyst report?

A. Because that's not a third party showing interest in the company.

Q. So you would say there's something substantially different between this Wall Street Transcript publication and a company filing a public statement, the same public statement, with the SEC?

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A. Again, it's a third party spending economic resources to go out and perform an interview and report it to the market. So that is demonstrating interest by a third party in the securities of the company and the company, itself.

Q. Do you know if you have any entities on your list here that are double counted?

A. What do you mean by double counted?

Q. When a company changes its name.

A. I don't think any of the reports are double counted.

Q. You said there are 15 analysts covering this stock. If one of them is an entity that simply changed its name, it should be 14; right?

A. That's possible. I don't know that I can exclude that possibility, but again, I think the point of this analysis was not to create a perfect list of the analysts and the reports. It was to evaluate whether there is evidence of significant analyst coverage and I believe I've done that, and I've attempted to quantify, you know, the number of reports and list who the companies were that purportedly issued those reports, and so I think I've done a fair job at

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showing what data I relied upon to reach the conclusion that there was significant analyst coverage.

Q. What was the first date of your analysis period?

A. I believe it's August 29, 2011, but let me double-check that. Yes, August 29, 2011.

Q. How many analysts were covering the stock on that date?

A. I don't know that I specifically know the answer to that. I know on that date, I believe, or right around that date, there was a conference call where there were -- there was at least one analyst who announced and at least a second one who was asking questions on the call, but I don't know that I have a -- there may have been others. I just don't know.

Q. On August 29, 2011, the beginning of the analysis period, excluding machine generated junk --

MS. POSNER: Objection.

Q. -- how many analysts were covering the stock; do you snow?

A. I don't know specifically how many were

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covering the company because again, as I said, to conclude that there was significant analyst coverage during the analysis period, I pulled down the complete list of what is listed in Investec I know that is an under-representation of all analyst reports so I don't have a specific number.

Q. If there was only one analyst covering the stock for the first, say, full year of the analysis period, that would be an indication that this factor should count against efficiency; correct?

A. Can I have that read back, please.

(Record read.)

A. I think if there were a single analyst covering the stock for some period of the analysis period, it would be fair to say that factor alone doesn't provide supporting evidence. You would still want to look at all the other factors, so I don't think that counts towards inefficiency. It's not some indicator of inefficiency, but I think that would be fairly weak evidence in terms of that factor, in isolation, providing economic evidence of efficiency.

Q. Did you see any analyst reports

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either on the NYSE or other exchanges throughout the country where the security can trade.

So to me it refers to third parties who are essentially making a market by offering quotes in the market.

Q. Do you know who the market makers were for Miller Energy's securities?

A. Not as I sit here, I don't know the particular firms or names of who the market makers were, no.

Q. Do you know how many there were?

A. I think there's a function within Bloomberg that you can ask how many market makers there were for common stocks, so for the common stock, I believe there were 73 different market makers listed for the class period, for the analysis period. I cite that in Footnote 41. And I'm sorry, let me take a step back.

The data for that, that's why I had 41 is -- the data for that was only available starting January 1st, 2014. But by -- as I describe throughout this factor, by virtue of trading on the NYSE, there's essentially a guarantee by the exchange that there's a specialist who is serving

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as a market maker at all times.

Q. Aside from the designated market maker that every New York Stock Exchange stock has, do you know at this point the identity of any other market makers for Miller Energy's preferred stock?

A. No.

Q. Do you know if there were any market makers for Miller Energy's preferred stock?

A. I don't know that for certain. Again, I think it's critical to understand that the Cammer factor, itself, talks about counting market makers as a relevant thing to do in over-the-counter markets without volume reporting.

That's certainly not the case for Miller Energy securities. They did trade on the exchange and I showed, in fact, for one, there was substantial volume so there was a lot of market making activity going on in all three securities. But I don't specifically know the identity or number of market makers for the preferred securities.

MR. BALLARD: Let take a short break.

THE VIDEO TECHNICIAN: We're going off the record. The time is 11:07 a.m.

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(Recess taken.)

THE VIDEO TECHNICIAN: This begins Media Unit No. 2. The time is 11:20 a.m. We're back on the record.

Q. Mr. Coffman, do you still have Exhibit 25 in your hands?

A. I do.

Q. Turning to page 21, you have a section here on Cammer factor 4, SEC Form S-3 eligibility; right?

A. Yes.

Q. And toward the end of paragraph 45, you indicate that "Eligibility to file a Form S-3 is confirmatory evidence of efficiency, not a requirement. Interpreted in this way, the standard makes sense as an indicator of efficiency."

What did you mean by that?

A. I guess I mean that looking at whether a firm is Form S-3 eligible is a fairly indirect measure and is essentially, based on the logic in the Cammer factor and as I describe here, it's a proxy for the quantity of publicly available information about a company that is outstanding.

So again, if a company is not S-3

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eligible, that certainly doesn't scream inefficiency simply because it's a fairly indirect measure, but when they are eligible, again, it's I think a confirmatory factor, but certainly not a bright line test for efficiency.

Q. So in your opinion as an economist, it's a factor that is at least indirectly relevant and so you do look at it to determine whether it supports or doesn't support efficiency?

A. I think that's fair, yes.

Q. At the beginning of the analysis period, Miller Energy was not eligible to use Form S-3; correct?

A. That's my understanding, correct.

Q. For how long, at the beginning of the analysis period, was Miller Energy ineligible to use Form S-3? Do you need some help?

A. Give me just a second. I mean, I don't know for certain off the top of my head what the date was. I believe it was after they filed their 2011 10-K, but I just don't recall specifically. I don't know what the date of that was or if that was the precise date that they became S-3 eligible.

I know for certain they did issue S-3s

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during the class period so certainly by the time they did that, they were S-3 eligible.

Q. Maybe I can help you. You do say in paragraph 45 that among the requirements to be eligible is the requirement that the company had filed all documents in a timely manner for the past 12 months.

A. I see that.

Q. So does that help you determine how long they were ineligible at the beginning of the proposed class period or the analysis period?

A. I haven't determined precisely when they met that requirement. It was certainly by September 6, 2012, because they filed an S-3 at that time, but precisely which date they became S-3 eligible, I don't recall.

Q. Was it not important to you for how long they were ineligible?

A. Again, given that the essence of this factor is, is there sufficient information available about the company, I mean, I acknowledge in my description that they weren't eligible for certain portions. So obviously during those portions, I wouldn't point at this factor for those

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particular periods as providing independent support for efficiency, but certainly during the analysis period, for most of it, they were S-3 eligible.

Q. So would you say that this factor supports your finding of efficiency for the portions of the analysis period when the company was S-3 eligible only?

It's not a trick question.

A. I understand. I think it would be hard to say, during the periods that it was ineligible, that you would look at this factor independently as providing evidence of efficiency.

Over most of the analysis period, it's clear they were eligible and it does provide that support, but when they were ineligible, technically this factor doesn't support that.

Q. You can confirm that Miller Energy was ineligible for the first full year of the class period; correct?

A. I don't know that I could conclude that, no.

Q. In paragraph 45, you indicate that one requirement is that the company had filed all documents in a timely manner for the past 12

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months; right?

A. Yes.

Q. Do you know what started the class period in this case, the proposed class period? Are you aware that the class period began with the filing of the Form 10-K, the second amended version of the Form 10-K?

A. That does ring a bell now. I recall there being an earnings announcement. I wasn't -- yes, I believe -- now that I'm thinking about it, yes, that does make sense.

Q. So now you can confirm that, in fact, the company was ineligible to use Form S-3 for the first full year of the class period, correct, proposed class period?

A. I believe that's probably correct, yes.

(Exhibit 26, Second Amended Form 10-K for Miller Energy for the period ending April 30, 2011, marked for identification, as of this date.)

MR. BALLARD: Let's mark this also as 27.

(Exhibit 27, detail printed from the EDGAR website for Second Amended Form 10-K

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and the percent would be 11.76 percent? That's the idea?

MS. POSNER: Objection.

A. That's the idea, yes.

Q. Of how you calculated it anyway?

A. That's the idea of how you calculate the proportion, itself. There's more that goes into how you statistically compare the difference, but that's how you calculate the proportion, yes.

Q. You can't just eyeball it to see if it's statistically significant, you have to actually test it?

A. Yes.

Q. If I want to go find the days that you have identified as the 318 no news days, where do I go to find that?

A. It's in our backup material, in my backup material.

Q. I'm going to hand you what we previously marked as Defendant's Exhibit 3 which is a copy of the Second Amended Complaint in this case. Have you read this?

A. Yes.

Q. You're aware that this is the current

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complaint in this case; right?

A. That's my understanding, yes.

Q. Would you turn to page 74. Do you see paragraph 200 on that page?

A. Yes.

Q. In paragraph 200, plaintiffs allege that "On December 24, 2013, a report entitled 'Miller Energy: Digging Itself Into Another Deep Hole' was published by TheStreetSweeper."

Do you see that?

A. I see that.

Q. Was December 24, 2013, a news day or a no news day in your analysis?

A. I would have to look at my backup material to determine that.

Q. Sitting here today, you don't know?

A. I don't know.

Q. Do you have anything with you today that would allow you to check that?

A. No.

Q. You didn't bring a laptop or anything with the date on it?

A. No.

Q. Should December 24, 2013 have been

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treated as a no news day?

A. I don't know. It may depend on when this particular report was issued to the market. I know December 24th is Christmas Eve. Some years Christmas Eve, I believe, is a non-trading day. Sometimes it closes the -- the market closes early on that day, so to know for sure, I would have to do a more detailed analysis of when this report came out.

Q. Look at paragraph 205, please. There are allegations here about the price of the common stock falling from the period December 23 to the date December 26. Do you see that?

A. I see that.

Q. Does that help you determine whether December 24 should be a news or a no news day?

A. I don't know because I can't read from this whether December 24 is a trading day or not.

Q. If December 24 was a trading day, should it have been treated in your analysis as a news day or a no news day?

A. I would have to investigate further if there was a way to tell what the timing of the issuance of that report was.

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Q. Do you know if -- let me back up. You said that you relied on certain sources to determine what days were news days and what days were no news days. I think you said Factiva, SEC filings, and something else.

A. Analysts reports.

Q. Anything else?

A. As I sit here, not that I can recall. To be absolutely sure, I would want to look at my backup, but I don't believe so.

Q. So if the December 24, 2013 report published by TheStreetSweeper didn't turn up in the Factiva database and didn't turn up in the list of analyst reports and didn't turn up in the SEC filing, your methodology would not have captured it and included that as a news day; correct?

A. That's possible. Whether we took into account this particular report is something that I would have to go back and look at my backup to determine.

Q. If you go back and look at your backup and you determine that December 24 was treated as a no news day, would you say that's a mistake?

A. Not necessarily. It would depend on

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the timing of when that report was issued.

Q. If the report came out during the business day, would you say it's a mistake?

A. By business day, do you mean during market hours when the market was open?

Q. Trading day. Yes.

A. I mean, it's possible. Again, given that the denominator in my calculations is 318, changing one day wouldn't be expected to change anything material, but, you know, based on additional information, it may be that one day would be better treated as a news day rather than a non-news day. Without investigating it specifically I just don't know.

Q. Well, I'm not really asking about whether changing one day would affect the results. I'm asking about your methodology, and it seems like your methodology took into account certain things like Factiva, but it didn't necessarily take into account things like what the complaint in this case was alleging.

MS. POSNER: Objection.

Q. So I'm wondering whether your methodology night need a little bit of refinement.

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A. Again, determining whether this particular report should have been treated as news on that particular day is something I would have to investigate.

Q. With a securities fraud case based on allegations about stuff being said to the market or not being said to the market, I mean, wouldn't the complaint be a pretty important thing to consult on what would be a news day versus a no news day?

A. I don't normally rely on the complaint as a fact about when certain things were disclosed. I usually verify that myself, so -- but like I said, whether this report was part of what was considered or wasn't considered, I just don't know as I sit here.

Q. If you, in your analysis, missed a news day that was identified in the complaint in this case as a news day, what does that say about your methodology?

A. I think that suggests possibly that it's not absolutely perfect. Again, I wouldn't expect something like that to -- an individual day to impact the overall conclusion, and I believe the methodology I've used to identify news days is

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filed publicly with the SEC?

A. It appears to say approximately 8:13 a.m., on July 16, 2013.

Q. From looking at this, can you now confirm that the Q4 and year-end results that you examined in event number 9 were disclosed prior to the market opening on July 16, 2013?

A. That's what this seems to suggest.

Q. So now can you confirm that you should have looked at a market date of July 16, 2013, instead of July 17, 2013?

A. It's possible. One thing I would like to do is review my backup to see if -- just to confirm that these dates, as listed, weren't a typo of some kind, but this seems to indicate the information was out at the beginning of market on July 16th, 2013.

(Exhibit 33, printout of some the backup material used in Chad Coffman's expert report, marked for identification, as of this date.)

Q. I'm going to hand you what we've marked as Exhibit 33. It's a printout of some of the backup material that you provided to us, and the

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backup material was voluminous, but there's a regression tab related to the common stock. Do you know what I'm talking about?

A. Yes.

Q. Do you recognize this as the data from that tab?

MS. POSNER: Just to be clear, I believe we produced all of the Excel spreadsheets, both Bates stamped and in native format so you can manipulate them. I'm going to assume you're representing that this is as originally produced as opposed to with any changes by you.

MR. BALLARD: I don't think I've seen one with Bates numbers on it. We got Excel files.

MS. POSNER: You should have gotten both. We Bates stamped one and kept it so it was a static version and then one in native so you can manipulate it. It's irrelevant.

My only purpose for asking is, this is as produced, there have been no changes to this.

MR. BALLARD: This has been formatted

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for printing so it can be printed on a large piece of paper. No one went and changed any numbers in here. I have my laptop here and I have the actual data files on here if anyone needs to look at those.

MS. POSNER: I just wanted the record to be clear.

MR. BALLARD: We did not change any of the numbers.

THE WITNESS: I'm sorry, what was your question?

Q. I think we were talking about whether you can confirm that you should have used July 16th, 2013, instead of July 17th, 2013 as the market date for event number 9, and you indicated that you might need to check some of your data. Now this is some of your data.

Looking at this now, can you now confirm that, in fact, you should have used July 16, 2013 as the market date?

A. That is certainly possible. Given that you're pointing out what looks to be a mistake, before I say on the record definitively, this is something I would want to consult. I would want to

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study carefully before giving a final view on this on the record, but based on what you've shown me, unless there's something that contradicts it, it appears July 16, 2013 would be the appropriate market date.

Q. And did you find a statistically significant price movement on July 16th, 2013?

A. No.

Q. Looking at your Exhibit 7, at event number --

A. What is giving me pause, just to be clear, is the specific time that is listed on Exhibit 7 is raising a question in my mind of why I'm citing 10:22 specifically, so I understand necessarily the reason for that. So you've pointed out something that concerns me. I just want to -- until I fully analyze this, I don't know what the changes may be.

MR. BALLARD: Maybe I can help you with that too.

THE WITNESS: Okay.

MR. BALLARD: I'll ask the court reporter to mark this with our next exhibit number.

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(Exhibit 34, printout from Marketwired, marked for identification, as of this date.)

Q. Do you have Exhibit 34 in your hands?

A. I do.

Q. This is a printout from Marketwired. Do you know what Marketwired is?

A. Generally. I don't have detailed knowledge of exactly -- it looks like a wire report. I don't know that I've studied Marketwired. It looks like a wire service. I don't know that I know that one specifically.

Q. It contains the information from the earnings release that you included in the event 9 of your Exhibit 7.

A. Okay.

Q. Do you see the date at the top of this and the timestamp?

A. It appears to be 8:00 a.m. on July 16.

Q. So again, now can you confirm that the information certainly was in the market and picked up by the market press before trading began on July 16?

A. I see that. It suggests the information came out before the market on July 16,

C. Coffman

2013.

Q. Now is there any doubt in your mind that you should have used July 16, 2013, as the market date for event 9?

A. Based on what you're showing me, it appears that's the case, but again, before I give a final view on that, I would need to go back and review how that occurred.

MR. BALLARD: Maybe I can help you with that too. Mark this, please.

(Exhibit 35, Dow Jones press release, marked for identification, as of this date.)

Q. I'm handing you Exhibit 35. Does reviewing Exhibit 35 help you clear up what happened here?

A. Possibly.

Q. The Factiva database picked up the correction on the newswire, but not the actual original release, and so it showed a timestamp of 10:22 p.m. on July 16, 2016, even though the information had come out the day before; right?

MS. POSNER: Objection.

A. I think it's -- I don't think your question was quite right.

C. Coffman

Q. Do you have any idea how you came up with 10:22 p.m. as the time and July 16, 2013 as the date for event number 9 on your Exhibit 7?

A. It's possible that it was this Dow Jones press release that was relied upon.

Q. This Dow Jones press release is not what you were intending to study in number 9; is it?

A. If the information was released prior to the market on the 16th, then it would have been appropriate to analyze July 16, 2013.

Q. And Exhibit 35, this Dow Jones newswire item, relates to a correction of three numbers in the previously released data; correct? Three numbers that had been converted incorrectly; right?

A. I guess I don't know where -- exactly where you're seeing that.

Q. The first paragraph.

A. Oh, I'm sorry. Okay, I see that.

Q. In event number 9, you weren't trying to test whether the release of the correction of these three incorrectly converted numbers had an effect on the market; were you? You were trying to test whether the earnings release, itself, had an

C. Coffman

effect; right?

A. That's correct.

Q. Now can you confirm with certainty that you should have used July 16, 2013 as the market date for event number 9 on your Exhibit 7?

A. That seems to be the appropriate conclusion. Again, to give a final answer, I would want to discuss with my staff and see if there's anything else that I'm missing here, but based on what you've shown me, that appears to be correct.

Q. So sitting here right now, based on everything you've seen, if you had to do this analysis right now, what market date would you use, July 16 or July 17?

A. Based on what I'm seeing here, July 16.

Q. So if that's your best understanding right now, I want to ask you some questions about what the items in that row should have in them. Should item 9, in the first column, under date, have July 15, 2013 instead of July 16, 2013?

A. Based on what you've shown me, I believe that's correct, yes.

Q. And the time in column 2 should change to something else too as well; right?

C. Coffman

A. Yes.

Q. The closing price should be $4.09, not $4.34; correct?

A. That's correct.

Q. The raw return should be 1.49 percent, not 6.11 percent; correct?

A. That's correct.

Q. The volume should be .3, not .5; correct?

A. Correct.

Q. The abnormal return should be 1.67 percent, not 5.56 percent; correct?

A. I'm sorry. Can you repeat that?

Q. The abnormal return should be 1.67 percent, not 5.56 percent; correct?

A. That's correct.

Q. The abnormal dollar change should be 7 cents, not 23 cents; correct?

A. That's correct.

Q. The t-stat should be .7, not 2.32; correct?

A. .70, that's correct.

Q. The sig level should not have any asterisk; correct?

C. Coffman

A. That's correct.

Q. There shouldn't be two, there shouldn't be even one, there should be no asterisk at all for event 9, it was not statistically significant; correct?

A. That's correct.

Q. Now would you say that it was only 3, not 4, of the 17 events on Exhibit 7 of your report that had statistically significant price movements at the 95 confidence level?

A. If what you've shown me is correct, then that's the case, yes.

Q. Can we turn to Exhibit 8 of your report, please. On Exhibit 8 of your report, under the earnings announcement column, where it says 4, that should be a 3; right?

A. If what you're showing me is correct, yes.

Q. For the number or the percentage of significant days at 95 confidence level, where you have 23.53 percent, that should be what?

A. I would need a calculator to give you the precise number.

Q. If I tell you that 3 divided by 17

C. Coffman

would give you 17.65 percent, does that help?

A. That would be the appropriate number then, that's correct.

Q. And then you have an average absolute abnormal return of 4.37 percent on this chart. On Exhibit 8 of your report, under the earnings announcements column, for the average absolute abnormal return, you have 4.37 percent. That should change to something else; right?

A. Yes.

Q. And the volume figure of .7 should change as well; right?

A. Yes. Both those numbers would go down, I believe by a relatively small amount, but they would be different, yes.

Q. So let's look at your report at page 30. There's a bar chart on page 30 of your report. Do you see that?

A. Yes.

Q. So that should change as well; right?

A. If what you're showing me is correct, then yes.

Q. So the first bar that is somewhere above 20 percent is going to drop down to something

C. Coffman

lower; right?
A. Roughly 17 percent plus.
Q. And on page 31, you have a bar chart on the average absolute return. Do you have that?
A. Yes.
Q. That would change a little bit too; right?
A. Yeah. I don't think that would change substantially, but it would come down a little bit, yes.
Q. On page 32, there's another chart on average daily trading volume. Certainly the data underlying, that would change a bit as well; right?
A. A bit, yes. I don't think it would change substantially, but yes, it would be lower.
Q. Let's turn to page 29 of your report. Paragraph 62, there's the reference to the 23.53 percent. Do you see that?
A. Yes.
Q. That's wrong; right?
A. If what you're showing me is correct, yes.
Q. And Footnote 61 is wrong; right?
A. It would be 17 percent instead of

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23.53.

Q. And you told us already you haven't done an analysis to see if that is statistically significant; right?

A. I would have to do that test to know.

Q. So sitting here today, you don't know if it would be statistically significant based on what you know now?

A. I would have to test that.

Q. And then paragraph 63, there's a 4.37 percent figure. Do you see that?

A. Yes.

Q. That might change as well; right?

A. Well, we already covered that, yes.

Q. And then so Footnote 63 would change. That's now wrong; right?

A. The percentage would change. Whether the conclusion about statistical significance needs to change is not clear.

Q. And then paragraph 63, again, there's a reference to the average magnitude of stock price movement on earnings announcement days was 1.7 times higher. You would have to take another look at that one as well; right?

C. Coffman

A. It would be slightly lower. It might still round to 1.7. I just don't know. I would have to check.

Q. And then on page 31, paragraph 65, there's a reference to average daily trading volume on the 17 days of 0.72 million. Do you see that?

A. Yes.

Q. You would have to look at that again as well; right?

A. That would go down slightly, yes.

Q. So going back to what we talked about earlier, we looked at four of the events on your Exhibit 7 for the year-end results for 2011, 2012, 2013 and 2014; right?

A. That's correct.

Q. And you had found a statistically significant increase in the price of Miller Energy's common stock in only one instance, and that was for the year 2013; right?

A. Originally, that's correct.

Q. Based on what you have in Exhibit 7 of your report and what you now know, can you now say that there was no statistically significant increase in the price of Miller Energy's common

C. Coffman

allegations are, but I, as a matter of fact, have not evaluated whether it's the case or not.

MR. BALLARD: Let's take a short break.

THE VIDEO TECHNICIAN: We're going off the record. The time is 2:28 p.m.

(Recess taken.)

THE VIDEO TECHNICIAN: This begins Media Unit No. 4. The time is 2:59 p.m. We're back on the record.

Q. Turning to your report, at page 29, Footnote 61 --

MS. POSNER: What page did you say?

MR. BALLARD: Page 29, Footnote 61.

Q. I believe you indicated earlier that you have not done the analysis as to whether you would still find statistical significance at the 95 confidence level if it was 3 out of 17 instead of 4 out of 17; right?

A. That's what I said before.

Q. You haven't done the analysis now; have you?

A. I did a back of the envelope calculation that I would want to check several times before I, you know, was highly confident in

C. Coffman

it, but it suggested that just changing it to 3 out of 17, it would still be significant at the 95 percent level.

Q. Are you ready to express that opinion or do you need to do more work on that first?

A. No. Given what you've pointed out, there are likely to be corrections to my report and before I express any final opinion on that, I would want to review a number of different things.

Q. I think earlier you also said that if you had removed the Cammer 5 factor entirely from your report, you hadn't evaluated whether you would still have an opinion on market efficiency without that; right?

A. I think I said that there would be lots of -- that there would be considerable economic evidence towards efficiency from the other factors, but I had not considered the possibility of explicitly removing Cammer 5 from my report.

Q. And I believe you said you hadn't given it thought and don't have an opinion sitting here today as whether removing that, you would still have an opinion.

A. Well, again, I said I wasn't sure why

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one would ever do that given the circumstances of this case, but I have not considered whether just totally removing Cammer 5, what the conclusion would be.

Q. Sitting here right now, you're not able to express an opinion on the question of whether there was a cause and effect relationship until you do further analysis.

Given what you have just said, do you have an opinion, sitting here right now, on whether the market for the common stock was efficient during the analysis period?

MS. POSNER: Objection.

A. Based on the analysis I've performed, it's clear that there is a much greater -- that there's a greater incidence of statistically significant days on the earnings announcements, that's there's greater absolute stock price movements, greater volume.

Also just, you know, setting aside or -- not setting aside. In addition to the analysis that's in my report, it's clear from just a cursory review of certain other dates during the class period that the stock price was moving in

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reaction to news. It wasn't part of what is included in my report, but I still believe that even with the material you showed me today, that there's a -- that this security traded in an efficient market.

Q. I understand you believe that. But my question is, do you have, as a professional economist, an opinion sitting here today as to whether the market for the common stock of Miller Energy was efficient during the analysis period?

A. I believe it was efficient during the analysis period, yes, and I -- like I said, I want to -- given what you've shown me, I want to go back and review certain items and evaluate certain items, but I do believe that it traded in an efficient market, yes.

Q. You keep saying you believe.

A. That's my opinion.

Q. That is your opinion sitting here today?

A. Yes.

Q. Have you provided us with all the backup and basis for that opinion or do you still need to do more?

C. Coffman

A. Yes. I think given what you've shown me, I will likely prepare a corrected version of the report and so at that point I believe I will have given you the full basis that I'm using to conclude that the market is efficient. But this alone does not change my opinion of the market efficiency.

Q. Do you expect that you will be revising your exhibits as well?

A. Based on what you've shown me, there will likely be revisions to my exhibits, yes.

Q. We got a large dump of data, Excel spreadsheets and the like. That will change as well; right?

A. I don't think anything in the event study, itself, will change, but the summaries from that event study will change. So it's -- there will be materials in the backup that would change, yes.

Q. Do you know how long it will take to do that work?

A. I don't know with any precision.

Q. I'd like you to take a look at Exhibit 3 which is the Second Amended Complaint, and I'll

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the nature of the misstatements, whether or not they would be expected to move the stock price. For example, if plaintiffs were using the price maintenance theory, then they might not be expected to move the stock price on the misstatement or omission dates, especially if there were omissions, but on the corrective disclosures, my understanding is they're alleging the price declined on certain corrective dates that reflects the dissipation of artificial inflation.

Q. So, so far, we've gone through six dates, the four alleged misstatement dates and the first of the two corrective disclosure dates, and we don't have a statistically significant movement in response to any of them on the first day; right?

MS. POSNER: Objection.

A. Well, in reviewing plaintiffs' complaint, there's an allegation that the allegedly false and misleading audit opinion was first issued on August 29th, which according to my event study, was statistically significant. So it's not clear to me that that's correct.

Q. So are you now saying the year-end results for 2011 came out on August 29?

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A. That's a possibility I need to investigate.

Q. So you may have another error on your Exhibit 7?

A. Well, given that you pointed out that I apparently inadvertently relied on a Dow Jones correction, I guess I would like to go back and review the details of each of these dates to make sure I'm selecting the right date, and I'm saying as of right now, there does appear to be a suggestion that August 29th may have been the right date to analyze.

Q. So we went through event 9 and talked about how your report and exhibits might change if you use the right data. You're now saying that event 1 might also be incorrect?

A. It's possible.

Q. Are you sure you still have an opinion sitting here today about whether the market was efficient?

A. Yes.

Q. Even without the data?

A. No. As I said, I believe there's sufficient evidence, based on the higher proportion

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of significant dates, that if what I'm saying about event 1 is right, that would actually improve the numbers, and my review of all the other Cammer factors and my review of other dates that I noted during the class period which showed statistically significant movements in response to clear new news, it's my professional opinion that the market for the common stock was efficient.

I believe based on what you've shown me today, there's some important details in my report that I want to revisit, but nothing has changed my view as to whether the market is efficient or not.

Q. So for Exhibit 7, you're saying you looked at 19 events, 19 events; right?

A. 17.

Q. Sorry, 17. Not a big number, 17 events. We know you got one of them wrong and you're saying you might have gotten two of them wrong, but one mistake was one direction and the other mistake might have been the other direction so it offsets?

A. I'm not saying that at all yet. I'm saying that there's details I want to go back and review.

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on the nine news or event days with the results you found on the no news days; right?

A. That's correct.

Q. So for this analysis here, you included earnings releases as well as certain other events; right?

A. That's correct, yes.

Q. On the common stock, you looked at only earnings releases; right?

A. That's correct.

Q. Why a different methodology?

A. Because the Series C and Series D were offered -- a couple of different reasons. Number one, they're offered later in the class period.

Number two, over the period in which they're trading at par value, I wouldn't, for the reasons described, wouldn't expect them to respond to quarterly earnings announcements frequently. So that was going to leave me with a small sample size of dates to test.

Three would not be -- I think there's three earnings announcements over the relevant period for performing this test so I attempted to identify an additional category or categories of

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dates that would be relevant to test.

Q. Wait a minute. This analysis here on Exhibit 9 is for the period when you said after October 15, 2014, you would expect the market prices of the preferred C series shares to react to earnings announcements; right?

A. Or at least could potentially, but I describe in the report how I'm not surprised that they don't, given that the market price of the common stock didn't react to these particular earnings announcements either.

Q. If you look at Exhibit 9 for this C series and you look at the earnings releases, that would be events 2, 4 and 8; right?

A. That's correct.

Q. And the price of the preferred stock, the C series, never reacted in a statistically significant way to an earnings release; correct?

MS. POSNER: Objection.

A. That's correct, and what I'm saying is that that's not in any way inconsistent with market efficiency given that the common stock didn't react significantly to those either.

Q. If you used the same methodology for

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the C series that you did for the common stock, you would have found no cause and effect relationship between the release of new information and movements in the price of the preferred stock; is that correct?

A. Well, if you're saying if I had used the exact same precise methodology, I suppose that's true, but there's reasons not to do that that are described in the report, and I do follow the same general methodology, which is to analyze dates with clear firm-specific news and compare it to dates where there's no firm-specific news.

So the overall methodology is the same. It's just I have a criteria for identifying additional dates for the Series C preferred stock and Series D preferred stock that I believe speak to -- that are potentially material events for the company that provide relevant evidence about market efficiency by testing those dates.

Q. To be clear, on Exhibit 11, you can confirm that the price of the Series D preferred also never reacted in a statistically significant way to an earnings release; correct?

MS. POSNER: Objection.

C. Coffman

A. Correct, and for the same reasons I responded to the Series C question, that did not surprise me.

Q. Can you look at Exhibit 2-C, please.

A. Okay.

Q. What is this intended to show?

A. It's just a graphical display of this particular information, what the closing price of the Series C preferred stock was, when the end of the analysis period was in the event that -- is the end of the analysis period, and then identifies the specific offerings that at least I was aware of that occurred during the analysis period.

Q. And this shows stock price as well as volume data?

A. I'm sorry, I left out the volume, yes. It shows the closing price of the Series C and the volume of the Series C on each day.

Q. So you're saying, looking at this chronology here, prior to the middle of October 2014, you would expect the price not to be reacting to company specific news, only interest rate movements?

MS. POSNER: Objection.

C. Coffman

Q. Mr. Coffman, could you turn to page 49 of your report, please.

A. Okay.

Q. This is where you talk about damages, and in the carryover paragraph you indicate that plaintiffs' complaint alleges -- I'm sorry. Hold on. I've got the wrong page. On pages 48 through 49 --

A. It starts on 47.

Q. I'm sorry, you're right. So let's go back. From page 47 onward, you have a discussion of 10(b)5 damages as well as Section 11 damages; right?

A. Yes.

Q. And let's talk about Section 11 damages first. In Section 11, there's a statutory formula that you mention in your report. Right?

A. Yes.

Q. And you quote it here. It states in part that you calculate damages for a Section 11 claim in part based on the difference between the amount paid for the security not exceeding the price at which the security was offered to the public, and then the sale price, and there's

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several ways that can be calculated; right?

A. Yes, not just the sales price but there's a number of different potential prices or values that you compare against based on when the shares sold.

Q. Depending on whether you held it forever or whether you sold it during the class period or the like; right?

A. Or I think it's technically not the class period, but the date of suit, or there's -- I mean, it says what it says.

Q. Got it. But the point is, for any of these damages calculations, you need to know the price at which the security was initially offered to the public; correct?

A. That's one element of the calculation, yes.

Q. Well, let's take a look at Mr. Ziesman. Do you have his certification? It was Exhibit 37.

A. Yes.

Q. So Mr. Ziesman, as we've noted earlier, purchased in June of 2014 at a price of $25.43 per share basically. Right?

A. Slightly below that, but yes, it rounds

C. Coffman

to that.

Q. He purchased at a price that was higher than any of the initial offering prices for the C series securities; is that correct?

A. That's my understanding, yes.

Q. So his damages will be limited by the statutory formula; is that correct?

A. Yes.

Q. To know what his damages are, you need to know which offering his shares came from; is that correct?

A. Well, you could make a statement about that his -- the offering price wasn't below a certain number so you could use the lowest offering price and say that his damages would be at least that much, but --

Q. To accurately calculate his damages, you need to know which offering his shares came from, correct, according to the statutory formula?

A. Like I said, I think there's a way to calculate it conservatively, but to precisely base it on the offering that that individual security was bought in, I don't know if that's necessary, but if it is, then what I'm describing would be a

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conservative estimate, but not necessarily the precise amount of damages that he might be entitled to.

Q. If his shares came from the initial offering in October 2012 at $23 per share, his damages would be capped based on the $23 amount under the statutory formula; correct?

A. Could I have that read back.

Q. I'll restate it. If Mr. Ziesman's shares came from the October 12 offering in which shares were sold at $23 per share, the statutory formula would limit his damages based on the $23 initial share price; correct?

A. That's my understanding, yes.

Q. If his shares came from the offering in February 2013, when shares were offered at $22.90 per share, his damages would be limited based on that number; correct?

A. I'm assuming you're quoting those numbers right without looking at them, but yes, it would be limited based on the offering price as of that date.

Q. If his shares came from the at-the-market offering, his damages would be

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limited under the statutory formula to whatever the original at-the-market offering price was for those particular shares; correct?

A. That's my understanding, yes.

Q. Do you know if his shares, Mr. Ziesman's shares, came from the October 2012 offering?

A. I don't.

Q. Do you know if they came from the at-the-market offering?

A. I don't.

Q. Do you know if they came from the 2013 best efforts offering?

A. You're referring to the at-the-market offering?

Q. No. There was an at-the-market offering in October 2012 and then a best efforts underwriting in February of 2013.

A. I don't know.

Q. Do you know if his shares came from the May 2013 offering?

A. I don't know.

Q. Do you know if his shares came from the June 27 offering?

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A. I don't know.

Q. So you can't say what Mr. Ziesman's damages would be under the statutory formula; isn't that fair?

MS. POSNER: Objection.

A. If it's unclear which offering it came from, I haven't determined whether that's determinable or not, but if it can't be determined, the best one could do is the most conservative estimate of his damages.

Q. Well, the statutory formula says damages are calculated based on the difference between the amount paid for the security not exceeding the price at which the security was offered. Right?

A. Yeah, and all I'm suggesting is that one could make a statement saying that his damages would be at least a certain amount if the -- if you could base it off of the lowest offering price.

Q. So if we go back to that statutory formula and the parenthetical "not exceeding the price," you would be calculating damages by a formula where you would insert the word "lower" before the word "price," so the formula in the

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statute would be calculated based on the difference between the amount paid for the security not exceeding the lowest price at which the security was offered to the public?

A. No.

MS. POSNER: Objection.

A. I'm not rewriting the statute. You're asking me -- again, I'm not -- it's not clear to me what offering he purchased in. It's not clear to me whether or not that information would ultimately be available.

I'm just saying that even if one couldn't determine his damages precisely based on the formula, if there was ambiguity about which offering he bought in, you could still make a statement potentially about the lowest amount of damages if it could be traced back to at least an offering that was at issue in the case. I'm not --

That's all I'm saying. As a matter of math, you could identify that damages were at least some certain amount if you were able to trace it back to an offering that is at issue in the case.

Q. You couldn't determine what his precise damages are under the statutory formula without

C. Coffman

being able to trace his shares back to a particular offering. Isn't that a fact?

A. I don't think you could identify the precise damages. I think I already testified to that, yes.

Q. And yet you have given an opinion in this case that you believe it would be possible to calculate Section 11 damages on a class-wide basis; is that not right? That was the opinion you stated in your report?

A. Well, I say -- again, embedded in paragraph 101 of my report is the idea that the purchase was made pursuant or traceable to the offering documents. So if there's a determination that based on what you're showing me, it can't be traced, then that's not part of what would be calculated.

If it can be traced, I'm saying I could make a statement about if it could be traced back to multiple offerings, one of multiple offerings that are part of the case, I could make a statement about that the damages were at least a certain amount, but I could not calculate the precise damages, so I could come up with a conservative

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estimate.

Q. So for now, we're only talking about Mr. Ziesman; right?

A. That's my understanding of what your question is.

Q. Yes.

A. Yeah.

Q. So now let's talk about the entirety of the proposed Section 11 class. Is it your testimony that you can calculate damages under the Section 11 formula for the proposed Section 11 class in this case?

A. My understanding of the definition of the class is people who purchased pursuant to or traceable to the offering documents, so that some -- that the definition of the class would only include people for which you could at least trace back to an offering, and I'm saying that while one might not be able to calculate precise damages for each investor, one would be able to calculate a minimum amount.

Q. I'm not asking if you can calculate a minimum amount. I'm asking if you can calculate the damages according to what you said is a

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statutory formula that can be applied on a class-wide basis. You can't; can you?

A. I don't think you can apply precisely the wording in here if you don't know which offering to trace it back to.

Q. And you looked at volume data for the Series C shares; didn't you?

A. I did.

Q. They traded, in your opinion, quite frequently?

A. They did trade quite frequently.

Q. They turned over more than, on average, two times a year; right?

A. That's true, yes.

Q. Mr. Ziesman goes into his Scottrade account in June of 2014 and buys 1,000 shares of C series stock. By that time, the C series has been trading and trading and trading in high volume for a long period of time; correct?

A. On average, they were trading more than the average security on the exchange, so there was a lot of volume, yes.

Q. So his shares are likely to have traded multiple times between the initial offering date,

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whenever that was, and we don't know when it was, and when he purchased them; right?

MS. POSNER: Objection.

A. I don't know that you can conclude that those particular shares traded multiple times. I just don't know.

Q. There's just no way to know; right?

MS. POSNER: Objection.

A. It's not clear whether there may or may not be records that would allow one to trace it back to a particular offering. I'm just saying I don't have any information that would allow me to do that as I sit here.

Q. Is the same true for the Series D shares, you don't know how or whether a particular plaintiff would be able to trace their shares back to a particular offering?

MS. POSNER: Objection.

A. If they bought it in the offering itself, they presumably could. If they bought in the secondary market, only after the first offering and not additional offerings, they might be able to.

And again, whether they could after a

C. Coffman

secondary offering, I think would depend on what evidence there might be, but I don't know of any as I sit here.

Q. So a plaintiff who actually bought in one of the offerings at the offering price, for that plaintiff, you could calculate their damages accurately under the statutory formula?

A. Absolutely, yes.

Q. It's just the people who bought in the aftermarket where you don't know?

MS. POSNER: Objection.

A. Again, I think with the exception of people who bought after the first offering before there were any secondary offerings, one could logically trace back to the initial offering.

Q. You're talking about the D series now?

A. Theoretically, that would be true for both series.

Q. Well, the first few offerings of C series are outside of the period and aren't at issue in this case so you could never trace back to those.

MS. POSNER: Objection.

Q. I guess let me ask you this: You've

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testified you could calculate damages for the Section 11 claim for the C series shares. How would you do that?

A. Well, for somebody that bought in one of the offerings, you would follow the statutory formula. For somebody that bought in the aftermarket, you would have to evaluate if there was a way to trace it back to one or a series of the offerings that are relevant in the case, and like I said, you could -- you might not be able to calculate the damages precisely, but you could get a lower bound estimate of what those damages would be.

Q. In your report, at paragraph 102, you wrote, "Given that there is a statutorily defined formula for Section 11 damages, it is clear that damages under Section 11 can be calculated using a common methodology for members of the Section 11 class."

Do you see that in paragraph 102?

A. Yes, and I'm stating that with respect to what I say in paragraph 101 is my understanding that it has to be pursuant or traceable to the offering documents at issue in the case.

C. Coffman

Q. So if a plaintiff didn't purchase any offering, like Mr. Ziesman, and can't trace to a particular offering, you can't calculate that plaintiff's damages under the statutory formula; is that fair?

A. I think it would be difficult to do that with precision. One might be able to say what the minimum amount of damages are, but it would be hard to know which precise offering price to use in the formula.

Q. Let's turn back to the complaint in this case, the Second Amended Complaint, Exhibit 3, and I want to direct your attention again to paragraph 197. That's the beginning of the section on the allegation that "the truth begins to emerge." Do you have that in front of you?

A. Yes.

Q. Before we dig into that, I want to direct your attention to one other paragraph earlier in the complaint, paragraph 4.

In paragraph 4, plaintiffs allege "The Miller Energy house of cards finally began to collapse in December 2013, when it started to become clear that the Alaska Assets were worth

C E R T I F I C A T E

STATE OF NEW YORK)

:

COUNTY OF NEW YORK)

I, ELEANOR GREENHOUSE, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That, CHAD COFFMAN, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of April, 2019.

Eleanor Greenhouse

ELEANOR GREENHOUSE